

REMARKS / ARGUMENTS

A Request for Continued Examination (RCE) has been filed concurrently with this response.

Claim 101 has been amended to include the limitations found in claim 105, which has been canceled, and to specify the coated end is at least partially coated. Claims 102-104, 106, 107, 109, and 118-121 remain pending. New claim 122 recites the sampling device of presently amended claim 101, without the limitation of the catheter and fibre holding region. New dependent claims 123 to 131 recite the limitations found in dependent claims 102-104, 106, 107, 109, and 119-121. New dependent claims 132 and 133 recite limitations found in previously amended claim 101. No new matter has been introduced by way of this amendment. For each amendment made, proper support exists in the originally filed specification.

Rejection of Claims under 35 U.S.C. §103

Claims 101-103, 106, 109, and 119-121 are rejected under 35 U.S.C. §103(a) as being obvious over Pompidou et al. (US 6,689,603) in view of Gourley et al. (US 5,120,510) and Simpson (US 4,616,652). Claim 104 is rejected under 35 U.S.C. §103(a) as being obvious over Pompidou et al. (US 6,689,603) in view of Gourley et al. (US 5,120,510) and Simpson (US 4,616,652), and further in view of Colburn et al. (US 2003/0183758). Claims 107 and 118 are rejected under 35 U.S.C. §103(a) as being obvious over Pompidou et al. (US 6,689,603) in view of Gourley et al. (US 5,120,510) and Simpson (US 4,616,652), and further in view of Pawliszyn (US 5,691,206).

In the Office Action of October 18, 2007, the Examiner indicated that an independent claim based on Claim 105 would be allowable if all the limitations of the base claim and all intervening claims were included. Claim 101 has been amended to so reflect the limitations of Claim 105. Claim 105 has been canceled. Applicant submits that claims depending from presently amended Claim 101 are therefore not obvious. As Claims 102-104, 106, 107, 109, and 118-121 are dependent from Claim 101, Applicant respectfully requests withdrawal of all rejections under 35 U.S.C. §103(a).

Support for the further amendment to Claim 101, that the fibre is “at least partially coated”, can be found in the claims as originally filed. The limitation that the fibre consists of “a coated end which is coated with a polymeric extraction phase” was introduced in the Response of August 3, 2007 in order to “distinguish over prior art having a coating that extends to the remainder of the fibre”. Applicant submits that such a distinguishing characteristic is no longer required since the limitations of Claim 105 distinguish the invention over the prior art. Matter removed from Claim 101 has been re-introduced in new dependent Claim 132.

New claim 122, based on claim 101 as currently amended, has been added to remove the limitations of the positioning device introduced in the Responses of September 14, 2005 and October 11, 2005. Applicant submits that the limitations of the positioning device were introduced with the Applicant’s understanding that such structural limitations (relating to the catheter) would provide distinction over the prior art. (See Response of October 11, 2005.) As the subjected matter defined in Claim 105 has been incorporated into the sampling device, the structural limitations previously introduced are no longer necessary to distinguish the invention over the prior art. New claim 133, depending from claim 122, has been added based on matter removed from Claim 101.

It is requested that the Examiner reconsider the rejections raised to the claims in view of the amendments now put forth and the above-noted arguments. Withdrawal of the obviousness rejections on this basis is respectfully requested.

A Request for Continued Examination is being filed concurrently as of today's date. The fee for RCE is included.

The Applicant believes that no further fee is due with this submission, but nevertheless authorizes the Commissioner to debit any required fee from or credit any overpayment to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

It is submitted that this application is in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

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